IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPET PETITION NO. 64 OF 2006.

IN

APPEAL FROM ORDER NO. 462 OF 1997

Hemant Gajanan Rawool. .. Petitioner

versus

Jaiwant G. Rawool & Ors. .. Respondents.

...

Mr.Pankaj Sawant with Henna Daulat &
Tushar Joshi i/b. Khaitan & Jaykar for petitioner.
Mr.Nitin Trivedi Advocate for respondent nos.
1,2,5 and 6.

CORAM : D.G. Karnik J.

Date:23rd August, 2006.

P.C:-

1. This contempt petitioner is filed by the

petitioner alleging that the respondent no. 4 has

illegally and in breach of the order passed by the City Civil Court and this court transferred the suit flat in the name of respondent no.1, 2 and 5.

2. In their affidavit in reply the respondents have stated that, the flat has never been transferred in their name. No independent material has been produced before me to show that the suit flat has been transferred in the name of the respondent no.1.

3. On the basis of the statement contained in the affidavit of Shri R.Hegde the secretary of the society that the respondent no. 1 is a member of the society, it is contended that the suit flat must have been transferred in the name of respondent no.1. Mr.Hegde has not stated that the suit flat has been transferred in the name of the respondent no. 1 but has merely stated that the respondent no. 1 is a member of the society. There is nothing on record to show when the respondent no. 1 became a member of the society and on becoming a member the suit flat was transferred to

him. There is no dispute that respondent no. 1 has been in occupation of the suit flat since long.

..3..

Respondent no. 1 being in possession of the said flat since long might have been admitted as a member of the society so as to bind him by the bye laws and decisions of the society. There is nothing on record to show that by reason of being a member the suit flat has been transferred in the name of the respondent no.1.

4. In view of the categorical denial on oath by the respondent no. 1, 2 and 5 in their affidavit and their version that the suit flat has not been transferred and in the absence of any material to show to the contrary no action in contempt can be taken against the respondents. The contempt petition is accordingly dismissed summarily.

(D.G. KARNIK, J.)